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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/686,876	10/16/2003	James D. Logan	D-12	7410
21253	7590	11/18/2004	EXAMINER	
CHARLES G. CALL 68 HORSE POND ROAD WEST YARMOUTH, MA 02673-2516			PAYNE, SHARON E	
			ART UNIT	PAPER NUMBER
			2875	

DATE MAILED: 11/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/686,876	Applicant(s) LOGAN ET AL.	
	Examiner Sharon E. Payne	Art Unit 2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>1003</u> . | 6) <input type="checkbox"/> Other: ____  |

## **DETAILED ACTION**

### ***Specification***

1. The abstract of the disclosure is objected to because two abstracts were submitted. Correction is required. See MPEP § 608.01(b).

### ***Claim Objections***

2. Claims 3, 10 and 17 are objected to because of the following informalities: the phrase "in an integral part" should be "is an integral part" in line 2 of each claim. Appropriate correction is required.

3. Claim 13 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 13 depends from and almost copies claim 12

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 15, 16 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Dragan (U.S. Patent 3,561,683).

Regarding claim 15, Dragan discloses an electrical light fixture including a socket for a light bulb mounted at the top of an upright support structure (Fig. 2), the adaptor comprising a

candle holder attached to a candle (Fig. 3), the candle holder including means for supporting a candle (Fig. 3) and further defining a passageway that is open at the bottom and sized to fit over the upright standard to laterally support the candle holder on the light fixture (Figs. 3 and 4).

Concerning claim 16, Dragan discloses a wax-catching tray below the candle (Fig. 3).

Regarding claim 18, Dragan discloses the wax-catching tray as detachable from the remainder of the candle holder (Figs. 3 and 4).

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 1-4, 8-11 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dragan.

Regarding claim 1, Dragan discloses a convertible electric candlelight fixture. The fixture includes a method comprising the steps of constructing a candle holder that forms a

hollow passageway open at the bottom of the candle holder (Fig. 4), placing the candle holder on the fixture such that the column standard is inserted into the hollow passageway to laterally support the candle holder (Fig. 3). (The light bulb may be screwed onto or off of the artificial candle.) Dragan does not disclose the step of removing the light bulb from the socket.

Removing the light bulb from the socket is considered to be an obvious variation. The light bulb in Dragan is in a threaded socket (Fig. 2). It would have been obvious to one of ordinary skill in the art at the time the invention was made to remove (unscrew) the light bulb from the socket to store the light bulb separately from the rest of the apparatus.

Concerning claim 2, Dragan discloses the candle holder further comprising a wax-catching tray positioned below a candle held by the candle holder (Fig. 3).

Regarding claim 3, Dragan does not disclose the wax-catching tray as integral to the candle holder.

Making the wax-catching tray integral to the candle holder is considered to be an obvious variation. Since the wax-catching tray is well known in the art, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the wax-catching tray integral to the candle holder, since making something integral to something else involves only routine skill in the art.

Concerning claim 4, Dragan discloses the wax-catching tray as detachable from the remainder of the candle holder (Figs. 2-4).

Regarding claim 8, Dragan discloses the steps of attaching a candle holder to the candle (Fig. 3), the candle holder including means for supporting a candle (Fig. 3) and further being formed to define a hollow passageway that is open at the bottom (Fig. 4) and has an inside dimension approximately equal to the inside dimension of the decorative sleeve (Figs. 2 and 3), removing the sleeve from the upright standard (Figs. 2 and 3) and placing the candle holder on

the fixture such that the column standard is inserted into the hollow passageway to laterally support the candle holder (Fig. 3). Dragan does not disclose the step of removing the light bulb from the socket.

Removing the light bulb from the socket is considered to be an obvious variation. The light bulb in Dragan is in a threaded socket (Fig. 2). It would have been obvious to one of ordinary skill in the art at the time the invention was made to remove (unscrew) the light bulb from the socket to store the light bulb separately from the rest of the apparatus.

Concerning claim 9, Dragan discloses the candle holder further comprising a wax-catching tray below the candle (Fig. 3).

Regarding claims 10 and 17, Dragan does not disclose the wax-catching tray as integral to the candle holder.

Making the wax-catching tray integral to the candle holder is considered to be an obvious variation. Since the wax-catching tray is well known in the art, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the wax-catching tray integral to the candle holder, since making something integral to something else involves only routine skill in the art.

Concerning claim 11, Dragan discloses the wax-catching tray as detachable from the remainder of the candle holder (Figs. 2-4).

9. Claims 5, 6, 12-14, 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dragan in view of Rhoads (U.S. Patent 1,622,347).

Regarding claim 5, Dragan discloses the candle holding supporting the candle (Fig. 3). Dragan does not disclose the outside walls of the candle holder forming an extension of the outer surface of the candle and visually appearing to be part of the candle. Rhoads discloses

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the outside walls of the candle holder forming an extension of the outer surface of the candle and visually appearing to be part of the candle (Fig. 3).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the candle holder to appear as being part of the candle as shown in Rhoads in the apparatus of Dragan to create a decorative effect.

Concerning claim 6, Dragan does not disclose the candle holder being covered with a coating that simulates the outer surface of the candle. Rhoads discloses the candle holder being covered with a coating that simulates the outer surface of the candle (Fig. 3).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the outside of the holder resemble the surface of the candle as shown in Rhoads in the apparatus of Dragan to create an aesthetically pleasing effect.

Regarding claim 12, Dragan does not disclose the outside walls of the candle holder forming an extension of the outer surface of the candle and visually appearing to be part of the candle. Rhoads discloses the outside walls of the candle holder forming an extension of the outer surface of the candle and visually appearing to be part of the candle (Fig. 3).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the candle holder to appear as being part of the candle as shown in Rhoads in the apparatus of Dragan to create a decorative effect.

Concerning claim 13, this claim is being objected to as failing to narrow claim 12, which means that this claim is being rejected on the same grounds as claim 12.

Regarding claim 14, Dragan does not disclose the outside walls of the candle holder being covered with a layer of candle wax to simulate the outer surface of the candle. Rhoads discloses the outside walls of the candle holder being covered with a layer of candle wax to simulate the outer surface of the candle (Fig. 3).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the outside of the holder resemble the surface of the candle as shown in Rhoads in the apparatus of Dragan to create an aesthetically pleasing effect.

Concerning claim 19, Dragan does not disclose the outside walls of the candle holder forming an extension of the outer surface of the candle and visually appearing to be part of the candle. Rhoads discloses the outside walls of the candle holder forming an extension of the outer surface of the candle and visually appearing to be part of the candle (Fig. 3).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the candle holder to appear as being part of the candle as shown in Rhoads in the apparatus of Dragan to create a decorative effect.

Regarding claim 20, Dragan does not disclose the outside walls of the candle holder being covered with a layer of candle wax to simulate the outer surface of the candle. Rhoads discloses the outside walls of the candle holder being covered with a layer of candle wax to simulate the outer surface of the candle (Fig. 3).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the outside of the holder resemble the surface of the candle as shown in Rhoads in the apparatus of Dragan to create an aesthetically pleasing effect.

10. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dragan in view of Rodman (U.S. Patent 2,831,331).

Regarding claim 7, Dragan does not disclose the candle consisting of a liquid fuel reservoir formed in the adapter and a wick extending into the fuel reservoir. Rodman discloses a liquid fuel reservoir formed in the adapter and a wick extending into the fuel reservoir (column 1, lines 20-25).



It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the liquid fuel candle of Rodman in the apparatus of Dragan to prevent wax from dripping down the sides of the candle.


### ***Conclusion***

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharon E. Payne whose telephone number is (571) 272-2379. The examiner can normally be reached on regular business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

12. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

sep

  
Stephen Husar  
Primary Examiner